

BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI

**Date of Decision: 7.6.2017**

**Misc. Application No.53 of 2017**  
**And**  
**Appeal No.58 of 2017**

Kumar Autocast Limited  
C-179, Focal Point, Phase VI,  
Ludhiana - 141010

..... Appellant

Versus

National Stock Exchange of India Ltd.  
Exchange Plaza, C-1, Block G,  
Bandra Kurla Complex, Bandra (E),  
Mumbai – 400 051.

..... Respondent

Mr. Kamal Ahuja, Advocate for the Appellant.

Mr. Rashid Boatwalla, Advocate with Ms. Sneha Herwade, Advocate i/b.  
Manilal Kher Ambalal & Co. for the Respondent.

CORAM : Justice J.P. Devadhar, Presiding Officer  
Dr. C.K.G. Nair, Member

Per : Justice J.P. Devadhar (Oral)

**Misc. Application No.53 of 2017**

This Miscellaneous Application is taken out seeking condonation of 109 days delay in filing this appeal. For the reasons stated in the Misc. Application No.53 of 2017 the delay is condoned. The Misc. Application is disposed of accordingly.

**Appeal No.58 of 2017**

1. The appellant is aggrieved by the communication issued by the National Stock Exchange of India Limited ('NSE' for short) on 8<sup>th</sup> April, 2016 whereby the application made by the appellant on 28<sup>th</sup> March, 2016 for listing its shares on NSE has been rejected.

2. Reasons set out in the impugned communication for rejecting the application of the appellant are that the appellant company does not meet the following eligibility criteria prescribed by the Exchange :

“The paid-up equity capital of the applicant company shall not be less than 5 crores and the net worth of the applicant company shall not be less than 10 crores.”

3. Counsel for the appellant submitted that the impugned communication does not set out the circular number and the date from which the aforesaid eligibility criteria has been prescribed by the Exchange. It is further submitted by the counsel for the appellant that although NSE claims that the aforesaid eligibility criteria have been prescribed vide Circular no. 212/2016 dated 17<sup>th</sup> March, 2016, there is nothing on record to suggest that the said circular was published any time prior to the impugned communication issued by NSE. In these circumstances, it is submitted that the impugned communication be quashed and NSE be directed to list the shares of the appellant company on NSE.

4. We see no merit in the above contentions.

5. Argument of the appellant that from 17.3.2016 till 8.4.2016 the Circular no.212/2016 dated 17.3.2016 was not displayed on the NSE website is not established by any cogent evidence. In the absence of any material to establish that the circular dated 17.3.2016 was not displayed on the website till 8.4.2016, we see no reason to entertain the plea of the appellant

6. Moreover, an affidavit is filed before us on behalf of the NSE wherein it is categorically stated that the Circular no.212 of 2016 dated 17<sup>th</sup> March, 2016 was in fact uploaded on the NSE website on the very same day. Various other documents are annexed to the said affidavit filed on behalf of NSE to demonstrate that the above circular dated 17.3.2016 was in fact displayed on the NSE website on 17.3.2016 itself.

7. We see no reason to disbelieve the statement made on oath by NSE. In the absence of any material to disbelieve the factual assertion made by NSE, we see no reason to entertain the appeal

8. In the result, the appeal is dismissed with no order as to costs. If the appellant complies with the eligibility criteria prescribed by NSE and makes a fresh application seeking listing of shares, then NSE shall consider the same in accordance with law and pass appropriate order as expeditiously as possible.

Sd/-  
Justice J. P. Devadhar  
Presiding Officer

Sd/-  
Dr. C.K.G.Nair  
Member

7.6.2017  
Prepared and compared by  
RHN